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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,588	03/03/2008	Karl Messmer	4200.P0130US	2533
23474 7590 04/13/2011 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
EXAMINER COOLMAN, VAUGHN				
ART UNIT 3618		PAPER NUMBER		
MAIL DATE 04/13/2011		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,588

Applicant(s)

MESSMER ET AL.

Examiner

VAUGHN T. COOLMAN

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 20-25 and 27-33 is/are rejected.
- 7) ☒ Claim(s) 18, 19 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 recites the limitation "the center" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-17 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Acuna Jr. (U.S. Patent No. 5,876,045).

[claim 15] Acuna discloses a snowboard binding with a base plate (10) and a center disk (15) in a circular center opening (shown in section in FIG 2) in the center of the base plate, wherein the center disk rests with a circumferential section (25 and 27) oriented towards a snowboard (5) on an edge section of the base plate which expands away from the snowboard at

the center opening and the center disk is provided with fastening openings (17) for fastening elements (19) for fixing the center disk and thus the base plate to the snowboard, and with a locking device (45) which is arranged on the edge section of the base plate at the center opening and secures the center disk at the base plate against rotational movement, wherein a contact surface is provided on the base plate and on the circumference of the center disk respectively (22, 18), the locking device presses the contact surface on the base plate in vertical direction towards the snowboard against the contact surface on the circumference of the center disk and the contact surface on the circumference of the center disk is provided on a radial projection of the center disk, which is designed as one piece with the center disk.

[claim 16] Acuna further shows the contact surface of the center disk and/or the contact surface on the base plate has a positive connection against rotational movement of the center disk with respect to the base plate (column 3, lines 30-34).

[claim 17] Acuna further shows the positive connection is formed by a toothing arrangement FIG 3).

[claim 20] Acuna further shows the contact surface of the base plate is provided in a recess of the base plate (30).

[claim 21] Acuna further shows the circumferential section (25) on the center disk and the edge section of the base plate which expands away from the snowboard at the center opening are of a smooth design (column 3, lines 27-30).

[claim 22] Acuna further shows the circumferential section on the center disk and the edge section of the base plate which expands away from the snowboard at the center opening are of a stepped design in their cross section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acuna.

[**claim 23**] Acuna fails to explicitly show the base plate stands out with its bottom side by less than 0.5 mm over the bottom side of the center disk. Examiner notes that the claimed distance of overlap of the bottom sides of the base plate and center disk is an obvious design choice having predictable results.

[**claim 24**] Acuna discloses all of the claim limitations as described above except for explicitly disclosing the fastening openings on both sides of the diameter of the center disk are arranged at the same distance from the diameter in the embodiment shown in FIGS 1-3. FIGS 4-6 disclose a snowboard binding including fastening openings (not labeled, fasteners 19 are

inserted therethrough) on both sides of a diameter of the center disk (15) being arranged at the same distance from the diameter. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the fastening openings shown in the first embodiment in the configuration shown in the second embodiment in order to secure the binding to the snowboard in a proven manner.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acuna in view of Hale (U.S. Patent No. 5,762,358).

[**claim 25**] Acuna discloses all of the claim limitations as described above except for disclosing the fastening openings being designed as elongated holes which run parallel to the diameter of the center disk. Hale teaches a snowboard binding including fastening openings (67) on both sides of a diameter of the center disk (19) being arranged at the same distance from the diameter that are designed as elongated holes which run parallel to the diameter of the center disk.. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the fastening openings designed as elongated holes which run parallel to the diameter of the center disk in order to provide more adjustability in the positioning of the binding.

Allowable Subject Matter

Claims 18, 19, 26, and 28-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 27 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAUGHN T. COOLMAN whose telephone number is (571)272-6014. The examiner can normally be reached on Monday thru Friday, 10am-8pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

V. TRAVIS COOLMAN
Examiner
Art Unit 3618

/V. T. C./
Examiner, Art Unit 3618

/Hau V Phan/

Primary Examiner, Art Unit 3618